



**Ad-Hoc Query on responsibility of education institutions for covering the costs of administrative expulsion and/or detention**

**Requested by CZ EMN NCP on 5<sup>th</sup> December 2012**

**Compilation produced on 9<sup>th</sup> April 2013**

**Responses requested from Austria, Belgium, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovak Republic, Spain, Sweden, plus Norway (21 in Total)**

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**1. Background Information and Summary of Responses**

The legal unit of the Department for Asylum and Migration Policy (Ministry of the Interior, Czech Republic) needed to learn whether the migration regulations of the Member States provide for liability of education institutions for covering the costs of administrative expulsion and/or detention of their foreign national students.

Of 21 Member States (MS) plus Norway who responded to the query, 11 do not and 5 do provide for responsibility of education institutions for covering the costs of administrative expulsion and/or detention of their foreign national students. In one MS some higher education institutions commit

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themselves (through bilateral agreements with the immigration office) to assist their students to departure home. In addition, two MS do provide for responsibility of education institutions if they issue declaration of commitment/liability in a particular case.






As for the time limit to the responsibility, the provisions or practice differs as follows:

- throughout the stay of the foreigner
- 1 year from the notification by the education institution to the immigration office that the student ceased to study
- no limit

1. Does your Member State hold education institutions liable for covering the costs of administrative expulsion and/or detention in case that the costs cannot be covered by the financial resources of the foreign national student?






2. If the answer is yes: Is there any time limit to the responsibility (i.e. the costs must be incurred within certain period after expiration of the residence permit)?

**2. Responses**

		<b>Wider Dissemination?</b>	
	<b>Austria</b>	<b>No</b>	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	<b>Belgium</b>	<b>Yes</b>	1. No, there is no such provision in the present legislation 2. Not applicable
	<b>Cyprus</b>	<b>Yes</b>	1. Yes, there is such a provision for covering the costs of administrative expulsion. 2. There is no time limit of the responsibility as from the expiration of the residence permit
	<b>Czech Republic</b>	<b>No</b>	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	<b>Estonia</b>	<b>Yes</b>	1. According to Aliens Act 174 and 291 (2,3) the educational institution where an alien who was granted a residence permit for study, the institution conducting the traineeship, international student organisation who intermediated the traineeship of an alien in Estonia and a youth organisation, for voluntary service in the framework of whose youth project or program an alien was issued a temporary residence





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			<p>permit for voluntary service, shall have the obligations of a sponsor provided for in this Act. A sponsor is required to host an alien in Estonia, guarantee his/her accommodation and bear the costs of the stay of an alien in Estonia and of his/her departure from Estonia.</p> <p>If an alien does not bear the proceeding costs or the costs of the compulsory enforcement of the obligation to leave or of the stay in the expulsion centre or police detention houses, the sponsor is obligated to compensate for the specified costs, but not more than 32,000 euros.</p> <p>2. There is no time limit.</p>
	<b>Finland</b>	<b>Yes</b>	<p>1. No, there are no such provisions in the Finnish Alien's Act</p> <p>2. Not applicable</p>
	<b>France</b>	<b>Yes</b>	<p>1. No, there is no such provision in the present legislation. In France, public authorities are liable for covering the costs of administrative expulsion and/or detention of a foreign national student.</p> <p>2. Not applicable.</p>
	<b>Germany</b>	<b>Yes</b>	<p>1. Liability of educational institutions for defraying the costs of expulsion and detention is not explicitly provided for in statutory law. However, educational institutions are liable if they have availed themselves of the general possibility of issuing a declaration of commitment vis-à-vis the competent local foreigners authorities to bear all costs incurred in connection with the residence and termination of residence of a foreigner. This is likely to be the exception rather than the rule.</p> <p>2. Liability ensuing from a declaration of commitment shall last from the beginning to the end of the foreigner's stay or until a residence permit is issued for a foreigner's stay for any purpose other than the one for which the declaration of commitment was issued (for instance, the liability arising from a declaration of commitment for a foreigner for the purposes of study shall be excluded if the foreigner is issued with a residence permit for the purposes of gainful employment after successfully completing his/her studies.</p>
	<b>Greece</b>	<b>Yes</b>	<p>1. There is no such provision in national legislation.</p>
	<b>Hungary</b>	<b>Yes</b>	<p>1. The costs associated with expulsion shall be borne by the person expelled or - if lacking the financial means necessary in connection with his/her family members - by the EEA national or the Hungarian citizen. Where the expulsion cannot be carried out because the person liable to bear the costs does not have the financial means necessary, the competent authority shall advance the costs of departure. Where the expulsion measure cannot be carried out because neither the person being expelled nor his/her host has the financial means necessary, the competent authority shall advance the costs of departure.</p> <p>2. The costs advanced shall be repaid: a) by the person expelled, b) by the host if the person affected was invited, c) by the employer, if the immigration authority ordered the expulsion of a third-country national under immigration laws who was engaged in any gainful</p>








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			<p>employment in the absence of the prescribed work permit or any permit prescribed under statutory provision, d) by the research organization if the person affected was admitted for the purposes of carrying out a research project and if the immigration authority ordered the expulsion of a third-country national under immigration laws who fails to comply with the requirements for the right of residence.</p> <p>Some higher education institutions committed to assist the students to departure home in the bilateral agreements with the ION. Under the agreements the higher education institution shall purchase the tickets and provide it to the ION in the case of expulsion from Hungary. The agreements consist of the upper limit of responsibility of the educational institutions. The cost may be the following: a.) the students' travel costs, b.) costs related placement of community shelters, meals, medical care c.) the cost of road transport, accompanying guards wage costs, d) and in the case of removal by air, the attendants' travel expenses (eg, tickets, airport tax, insurance, subsistence, accommodation).</p>
	<b>Italy</b>	<b>Yes</b>	<p>1. No, in Italy there is no such provision in the present legislation.</p> <p>2. N/A.</p>
	<b>Latvia</b>	<b>Yes</b>	<p>1. Immigration law defines that expenses related to the forced return, detention and keeping under guard of a foreigner or readmission to the country which is taking him or her back, shall be recovered from the foreigner or his or her inviter or from employer, if employer has illegally employed the foreigner who is illegally staying in the Republic of Latvia. In accordance with that the costs can be recovered from one, several or all of the persons mentioned.</p> <p>2. In the case mentioned as an example, the foreign student will depart voluntarily and in such case there will be no expenses for recovery. The Immigration law foresees that only the costs related to the forced return should be recovered.</p>
	<b>Lithuania</b>	<b>Yes</b>	<p>1. Yes. The <i>Law On the legal status of aliens</i> states that expulsion costs shall be borne by an alien, by a legal or natural person who invited an alien or carriers in accordance with the law. Higher education institution also submits a signed form in which it is stated that the inviting party will cover costs related to expulsion costs.</p> <p>2. The law does not specify a time limit. However, in the case of researchers the Law specifies that a period during which the inviting party commits to bear the costs of expulsion is 6 months after the end of a contract.</p>
	<b>Luxembourg</b>	<b>Yes</b>	<p>1. No, there is no such provision in the present legislation for students. However, concerning with third country national pupils who applies to participate in an exchange program, the authorization of stay will only be granted if s/he fulfills the different conditions required, especially, the one which requires proof that the institution organizing the exchange program of pupils will have to be responsible for the pupils during the entire stay, maintenance expenses and return expenses. (article 601 point 5 of the law of 29 August 2008 on free movement of persons and immigration)</p>

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			2. Not applicable.
	<b>Netherlands</b>	<b>Yes</b>	1. Legislation provides for the possibility to charge educational institution with the costs for forced return. This is limited to the costs for travel expenditures and travel documents if needed.  2. Educational institutions can be charged for the costs for forced return up to (maximum) 1 year after the institution has notified the IND that a student has stopped his/her study.
	<b>Poland</b>	<b>Yes</b>	1. No. At present Polish education institutions do not hold liability for covering the costs of administrative expulsion and/or detention of a foreign student in case that the costs cannot be covered by the financial resources of the foreigner. This cost is covered by the state budget (the Border Guard includes costs of detention or/and expulsion in its annual budget).  2. Not applicable.
	<b>Portugal</b>	<b>Yes</b>	No. There are no liability of education institutions for covering the costs of administrative expulsion and/or detention of their foreign students.
	<b>Slovak Republic</b>	<b>Yes</b>	1. No. Following the current legislation the education institutions do not cover the costs for the administrative expulsion of the foreign national students.  2. Not applicable.
	<b>Spain</b>	<b>Yes</b>	1. No  2. Not applicable
	<b>Sweden</b>	<b>Yes</b>	1. No.  2. Not applicable.
	<b>Norway</b>	<b>Yes</b>	1. No  2. Not applicable

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